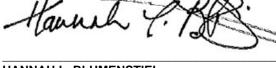
Entered on Docket March 31, 2022 EDWARD J. EMMONS, CLERK

EDWARD J. EMMONS, CLERK U.S. BANKRUPTCY COURT NORTHERN DISTRICT OF CALIFORNIA



Signed and Filed: March 31, 2022

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HANNAH L. BLUMENSTIEL U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re:

RICHARD TOM,

Debtor.

MARK NG, KENDALL NG, and
LORAINE WONG,

Plaintiff,

V.

RICHARD TOM,

Defendant.

Defendant.

## THIRD ORDER REGARDING DISCOVERY DISPUTE

This proceeding came before the court on March 31, 2022 for a hearing set pursuant to the court's Order Setting Hearing, issued March 21, 2022. The hearing pertained to a discovery dispute described in correspondence submitted on March 21, 2022 by counsel for Plaintiffs Mark Ng, Kendall Ng, and Loraine Wong, pursuant to Paragraph D of the court's Practices & Procedures. Consistent with the March 21 Order, respondents Green Oasis Limited Partnership ("GOLP") and Pacific Golden Asia LLC ("PGA")

 $^{1}$  Dkt. 69 (the "March 21 Order").

submitted a joint response on March 24, 2022.<sup>2</sup> Also consistent with the March 21 Order, Defendant Richard Tom submitted a response on March 25, 2022.<sup>3</sup> Appearances were as noted on the record.

Plaintiffs requested that the court order GOLP and PGA to designate a new witness pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure.<sup>4</sup> Plaintiffs explain that Ms. Kenesha Fudge, whom GOLP and PGA had previously designated under Civil Rule 30(b)(6) was incapable of testifying competently, completely, and accurately due to her significant health problems. To facilitate GOLP and PGA's designation of such a witness and Plaintiffs' deposition of such witness, Plaintiffs also request an extension of the fact discovery deadline set pursuant to the court's February 8, 2022 Order.<sup>5</sup> Finally, Plaintiffs request leave to file a motion seeking sanctions against GOLP, PGA, and their counsel, Mr. Charlie Yu, for their "inappropriate designation" of Ms. Fudge as GOLP and PGA's witness under Civil Rule 30(b)(6).

GOLP and PGA do not deny that Ms. Fudge's testimony has been tedious, given her health issues, but they dispute (without evidence) that she has been unable to testify completely or

<sup>24 || 2</sup> Dkt. 71.

<sup>25 || 3</sup> Dkt. 72.

<sup>26 | 4</sup> Rule 30 of the Federal Rules of Civil Procedure applies in its entirety in this adversary proceeding pursuant to Rule 7030 of the Federal Rules of Bankruptcy Procedure.

<sup>5</sup> Dkt. 44 (the "Feb. 8 Order").

accurately. They further contend that her designation under Civil Rule 30(b)(6) was made in good faith.

Based on the court's consideration of the written submissions it has received, as well as the arguments of counsel at the March 31 hearing, the court **ORDERS** as follows:

- 1. No later than April 8, 2022, GOLP and PGA shall designate a competent witness, capable of providing complete and accurate testimony on GOLP and PGA's behalf, pursuant to Civil Rule 30(b)(6).
- 2. GOLP and PGA shall make such witness available for
  deposition(s) in accordance with Civil Rule 30 no later than May
  31, 2022. Plaintiffs, GOLP, and PGA shall negotiate the date(s)
  of such deposition(s) in good faith.
- 3. The fact discovery deadline set forth in the Feb. 8
  Order is hereby EXTENDED through May 31, 2022 for the purpose of completing the deposition(s) required by this order.
- 4. Plaintiffs' request for leave to file a motion for sanctions is hereby **DENIED** without prejudice to the renewal of such request if GOLP and/or PGA fail to comply in good faith with this order.

\*\*END OF ORDER\*\*

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## Court Service List

[None]